

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 07-10011
)	
PRUDENCIO CHAVEZ-QUINTANA,)	
)	
Defendant.)	
_____)	

Memorandum and Order

This matter came before the court on July 16, 2009 for a status hearing following remand from the Tenth Circuit Court of Appeals. The Government was represented by Assistant U.S. Attorney Brent Anderson. The defendant was represented by Derek W. Miller of Liberal, Kansas, who appeared by phone. The defendant did not appear. This written memorandum will summarize the court's ruling at the status hearing.

Following a jury trial, the defendant Prudencio Chavez-Quintana was convicted of seven counts, including three counts of Aggravated Identity Theft in violation of 18 U.S.C. § 1028A. On October 23, 2007, this court sentenced him to a total term of imprisonment of 25 months, followed by two years' supervised release, and a special assessment of \$700.¹ The defendant

¹ The defendant was found guilty of Counts 1, 2, 3, 4, 7, 9, and 10 of the Second Superseding Indictment. Doc. 58. Counts 5, 6, and 8 were dismissed. He was sentenced as follows: Imprisonment: On Counts 1, 3, 7, and 9 - 1 month, each count, said terms to run concurrently with each other; and on Counts 2, 4, and 10 - 2 years, each count, said terms to run concurrently with each other and consecutively to Counts 1, 3, 7, and 9. Supervised Release: Counts 1, 3, 7 and 9 - 2 years, each count, said terms to run concurrently with each other; Counts 2, 4, and 10 - 1 year, each count, said terms to run concurrently with each other and concurrently with Counts 1, 3, 7, and 9. A special condition of supervision was that upon completion of the term of imprisonment, the defendant was to be delivered to an immigration official for

appealed, and the Tenth Circuit subsequently held that the Government's evidence was insufficient on the three Aggravated Identity Theft counts (2, 4, and 10). In the mandate filed June 12, 2009, the Circuit "REVERSE[S] Mr. Chavez-Quintana's convictions under 18 U.S.C. § 1028A for aggravated identity theft and REMAND for proceedings consistent with this opinion." Doc. 71.

Upon receiving information that the defendant had already completed the previously-imposed term of imprisonment and had been deported, the court set this matter for the aforementioned status hearing to determine how to carry out the Circuit's mandate. Counsel for the parties confirmed at that hearing that the defendant had indeed been deported upon completion of the term of imprisonment. The court stated its intention to enter an Amended Judgment finding the defendant not guilty of Counts 2, 4, and 10 (the Aggravated Identity Theft counts), but leaving intact the sentence previously imposed on the others counts on which defendant was found guilty.

Counsel for defendant had no objection to the entry of such an Amended Judgment. Counsel for the Government likewise stated that it did not object. Accordingly, the court directs the Probation Office to prepare an Amended Judgment in accordance with this order.

IT IS SO ORDERED this 16th Day of July, 2009, at Wichita, Ks.

s/Wesley E. Brown
Wesley E. Brown
U.S. Senior District Judge

deportation and that, "[i]f ordered deported, the defendant shall not unlawfully reenter the United States." Special Assessment: \$700.